

REMARKS

This Amendment rewrites claims 12 and 18, and amends the title. The insertion of "enhancing the microorganism(s) growth" into claim 12 is supported by the kinetic growth curves illustrated in Figs. 1-6 as well as the application Examples, particularly at Tables 1-4 and page 17, lines 11-14. The insertion of "so that the detection time of said microorganism(s) is reduced" into claim 12 is supported by page 6, lines 22-23, and page 7, lines 1-3. Claims 12-27 are pending.

This Amendment overcomes the objection to the title. More particularly, the title clearly indicates the invention to which the claims are directed. Reconsideration and withdrawal of the objection to the title are earnestly requested.

This Amendment overcomes the 35 U.S.C. § 112, second paragraph, rejection of claims 12-27. Claim 12 has been rewritten to clearly recite a detection step, and to specify that the detection time is reduced in comparison to the time required to detect the microorganism in the absence of the sterile, inert, solid support. Reconsideration and withdrawal of the indefiniteness rejection of claims 12-27 are earnestly requested.

The 35 U.S.C. § 102(b) rejection of claims 12-20, 22, 23 and 27 over U.S. Patent No. 5,795,773 to Read et al. is respectfully traversed. A feature of the claimed method for detecting

microorganisms is the enhancement of the growth rate of the microorganism(s) to be detected. This enhancement is caused by the addition of a sterile, inert, solid support into a receptacle containing a sample in contact with a culture medium. The support is thus placed in suspension in the culture medium.

Read et al. fails to disclose a method for detecting the presence of a microorganism in which a sterile, inert, solid support is added to a receptacle containing a sample in contact with a culture medium. Reconsideration and withdrawal of the anticipation rejection of claims 12-20, 22, 23 and 27 over Read et al. are respectfully requested.

The 35 U.S.C. § 103(a) rejection of claims 21, 24 and 25 over Read et al. is traversed. As discussed above, a feature of the claimed method is the addition of a sterile, inert, solid support to a receptacle containing a sample in contact with a culture medium. The sterile, inert, solid support is thus in suspension in the culture medium. The growth rate of microorganism(s) present in the sample is increased due to fixation by adsorption of the microorganism on the support, which causes them to replicate faster than in a suspension medium.

Read et al. fails to raise a prima facie case of obviousness against the claimed method. More particularly, Read et al. discloses a non-invasive method for detecting the presence of

microorganisms in a specimen which requires a vessel containing a liquid culture medium and a disposable sensor having an indicator medium therein. Importantly, the sensor is permanently fixed to the vessel during the manufacture thereof. For example, the sensor may be permanently located at the bottom of a culture container during its manufacture. The sensor may be in the form of a disk which is covered by a membrane placed between the sensor and the culture medium. See Figs. 9, 10A and 10B and Col. 5, lines 4-11 of Read et al.

The position of the sensor device in Read et al. is justified according to its function, which is to enable detection of the physicochemical parameters of the culture medium. In order that the detection can be implemented, it is essential that the sensor be disposed in a place where it can be observed.

One of ordinary skill in the art would not be led by Read et al. to the claimed detection method, in which a sterile, inert solid support is added to a receptacle containing a culture medium in order to increase the growth of microorganisms contained in the culture medium, said microorganisms fixing themselves on the support.

Reconsideration and withdrawal of the obviousness rejection of claims 21, 24 and 25 over Read et al. are earnestly requested.

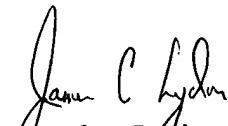
U.S. Patent Appln. S.N. 09/870,510
AMENDMENT

PATENT

It is believed this application is in condition for allowance. Reconsideration and withdrawal of all rejections of claims 12-27, and issuance of a Notice of Allowance directed to those claims, are earnestly requested. The Examiner is urged to telephone the undersigned should he believe any further action is required for allowance.

A Petition and fee for a one month Extension of Time are attached. It is not believed that any additional fee is required for entry and consideration of this Amendment. Nevertheless, the Commissioner is authorized to charge our Deposit Account No. 50-1258 in the amount of any such required fee.

Respectfully submitted,


James C. Lydon
Reg. No. 30,082

Atty. Case No.: BONN-054
100 Daingerfield Road
Suite 100
Alexandria, Virginia 22314
Telephone: (703) 838-0445
Facsimile: (703) 838-0447

Enclosure:
Petition for Extension of Time